

### **Proposed ARM edits to 12.11.6705: MADISON RIVER COMMERCIAL USE CAP ON GUIDED TRIPS**

- 1) River service providers may only operate guided trips on the Madison River if they have a Madison River Special Recreation Permit and trips allocated to them as provided by these rules.
- 2) The total number of guided trips per individual service provider shall be initially set at the number of trips reported in 2019 or 2020, whichever is higher.
- 3) ARM 12.11.6705 will be implemented January 1, 2023.
- 4) The commission will review ARM 12.11.6705 in 2023 as prescribed by ARM 12.11.6711.

### **CURRENT VERSION: 12.11.6705 MADISON RIVER COMMERCIAL USE CAP**

- 1) *Fishing outfitters and guides may only operate on the Madison River as long as they have a Madison River Special Recreation Permit and trips allotted them as provided by these rules*
- 2) *The total number of fishing outfitting and guided trips per individual outfitter and guide is capped at the number of trips reported in 2019 or 2020, whichever is higher.*
- 3) *ARM 12.11.6705 will be implemented January 1, 2023.*
- 4) *The commission will review ARM 12.11.6705 in 2023 as prescribed by ARM 12.11.6711.*

### **Proposed new ARM: EXCLUSION OF DONATED TRIPS FROM COMMERCIAL TRIP CAP**

- 1) A limited number of trips donated to a 501(c)3 organization shall be exempt from the commercial use cap so long as:
  - a. The river service provider presents documentation from the IRS approved 501(c)3 non-profit organization confirming that the donation and any consideration paid to the river service provider for the donated trip.
  - b. Zero payments are accepted for the donated trip(s).
  - c. The number of trips that an outfitter may donate to receive an exemption from their commercial use cap shall be 3 trips per year or 3% of their year ending trip cap whichever is greater. Any trips donated beyond this threshold shall be counted against their commercial trip cap.
  - d. All donated trips shall be logged and submitted in year end reports.

### **Proposed new ARM: APPEALING FOR INCREASED TRIP ALLOCATION ON THE MADISON RIVER**

- 1) A river service provider who held a Madison River SRP before January 1, 2019 may appeal to have historic use from any portion of the 2016, 2017, or 2018 considered in assigning the number of trips allocated to him/her.
- 2) The Fish and Wildlife commission review the extenuating and unique requests from river service providers. The Commission may choose to appoint an appeals board or the Department to review appeals and make recommendations to the Commission.
- 3) Appeals will only be considered if the following requirements are met:
  - a. Unusual and extenuating circumstances resulted in a temporary reduction of trips operated in the 2019 and /or 2020 seasons such as:
    - i. Major and persistent medical issues that affected the river service provider's ability to conduct trips.
    - ii. Active military service by the river service provider during 2019 or 2020 that affected the permit holder's ability to conduct trips.
    - iii. A significant and unforeseen family crisis that prevented the river service provider's ability to conduct trips during 2019 or 2020.

- iv. Other unforeseen and unanticipated factors that clearly demonstrate extenuating circumstances, unique to their situation, that may have affected the number of trips reported in 2019 and 2020.
  - b. The circumstances must be temporary, and the service provider must demonstrate that they were able to return to their historic levels of operations during either 2021 or 2022.
  - c. The circumstances must be unique to their situation. Circumstances that universally applied to other river service providers will not be considered.
- 4) The appeal request must be submitted using the request form provided by the department along with any required supporting documentation no later than (*May 1, 2023 – Note the Department/Commission may choose to move this date earlier*). Requests received after this date will not be considered.
- 5) The Fish and Wildlife commission shall make its decisions based on the information provided in the request form and a recommendation from the department and the appeals board no later than (May 1, 2024). The Fish and Wildlife's commission's decision is final.
- 6) The total number of additional trips that may be granted collectively to all river service providers requesting special consideration must not be greater than 3% of the total number of trips initially allocated to all river service providers upon implementation of river use permits in 2023. If the aggregate of trips approved by the appeals process exceeds 3% then the number of trips granted through appeals will be prorated among successful applicants.

#### **Proposed new ARM: FORFEITING ALLOCATED TRIPS ON THE MADISON RIVER**

- 1) A Madison River service provider will forfeit all or some of their allocated trips if one or more of the following occur:
  - a. If 0 trips are operated in 3 consecutive years, then their allocated trips will be forfeit.
  - b. If the cumulative number of trips operated over a 3-year period by a river service provider fails to exceed 50% of their maximum allocated trip potential in the same time period:
    - i. Their annual trip allocation will be reset to the highest number of trips operated annually during the 3 most recent years and the remainder of allocated trips will be forfeit.
    - ii. The maximum allocated trip potential in a 3-year period will be defined as the sum of the river service provider's year ending allocated trip cap in each of the 3 most recent years.
    - iii. Any trips released by permanent or temporary transfer to another river service provider will be removed from their allocated trip cap before calculating the provider's year end trip allocation.
  - c. If the river service provider fails to renew the required licenses and permits required to operate trips on the Madison River, then all trips allocated to them will be forfeit.

#### **Proposed new ARM: USE OF TEMPORARY TRIPS ON THE MADISON RIVER**

- 1) The department shall establish a pool of temporary trips that consists of forfeited trips.
- 2) River service providers that meet the qualifications to operate guided trips on the Madison River may apply for a maximum allocation of 25 temporary trips on an annual basis.
- 3) When allocating temporary trips, the department will give preference to new river service providers that are eligible to receive the required permits to operate on the Madison River, or who have held the required permits for less than 2 years.
- 4) If the cumulative number of temporary trips requested by applicants exceeds the number of temporary trips available in the pool, then the trips will be allocated to qualified applicants via lottery.
- 5) Temporary trips will be allocated to a river service provider for a maximum of 3 years.
- 6) Temporary trips may not be transferred.

- 7) If a river service provider has acquired standard trips through a transfer as governed by (ARM XXX), the temporary days will only be used once the standard allocation of trips has been exhausted.
- 8) After 3 years, the highest number of temporary trips operated in any of the three previous years will be converted to standard allocated trips and the remainder will be forfeit.

#### **Proposed new ARM: TRANSFER OF ALLOCATED TRIPS ON THE MADISON RIVER**

- 1) River service providers may transfer allocated trips to another qualified river service provider.
- 2) The transfer must be designated as permanent or temporary.
- 3) A temporary transfer expires at the end of the year in which it was transferred, and the allocated trips return to the original river service provider in the subsequent year.
- 4) The river service provider transferring trips must complete an allocated trip transfer form provided by the department that must stipulate the following:
  - a. Designate the qualified river service provider who will receive the transferred trips.
  - b. The date of the transfer request.
  - c. If the transfer is to be permanent or temporary.
  - d. Indicate the number of allocated trips being transferred that have not been conducted in the current operating year (transfer is immediate).
  - e. Indicate the number of allocated trips being transferred that have already been conducted in the current operating year (transfer occurs when the permit is renewed in the subsequent year).
- 5) Temporary trips may not be transferred.

#### **Proposed ARM edits to 12.11.6711: REVIEW OF COMMERCIAL USE RULES FOR THE MADISON RIVER**

- 1) The department shall provide an annual report on commercial guided trip use on the Madison River.
- 2) The commission, or a work group assigned by the commission, shall perform an adaptive management review of all ARM rules governing commercial use on the Madison following 2023, 2024 and 2025, and then every 3 years following to determine if they are functioning as contemplated or if there are new conditions requiring modifications to the existing ARM rules:
  - a. Ensure that ARM rules for both commercial and non-commercial recreation are coordinated.
  - b. If actual use of commercial guided trips drops below 75% of the aggregate allocated trips review:
    - i. Any impediments to the ease of transferability of allocated trips as prescribed by ARM (XXX).
    - ii. Any modifications to the requirements to forfeit trips as prescribed by ARM (XXX).
    - iii. Consider issuing additional allocated trips as prescribed by ARM 12.11.6705.
  - c. If actual use of commercial guided trips becomes more condensed in the Peak Season between June 15 and September 30<sup>th</sup>, or into other periods on or more sections of the Madison River, review:
    - i. Potential for creating Peak Season limitations or Off-Peak Season changes,
    - ii. Potential for creating geographical limitations,
    - iii. Potential for specific FAS launch limitations by site, per day or week, etc.
  - d. Review Charitable exemption usage as prescribed in ARM (XXX) for effectiveness, abuse or any adjustments; particularly if the aggregate number of donated trips receiving exemptions by all river service providers exceeds 300 per year.
  - e. Review definition of a "Trip" if it becomes necessary to limit the number of guests per guide or otherwise more specifically define a "Trip".

- f. Review usage patterns on Ennis Lake to determine if any commercial use regulations are necessary.
- g. Review ease of entry for new river service providers and any needed ARM rule modifications.

**Current ARM version: 12.11.6711 REVIEW OF RECREATION RULES FOR MADISON RIVER**

- 1) *The commission shall review:*
  - a. *ARM 12.11.6702, 12.11.6705, and 12.11.6706 in 2023; and*
  - b. *the rules governing recreational use on the Madison River every five years beginning in 2024.*